

INSTRUCTIONS

Response to Notice of Motion and Motion to Stop Cost of Living Adjustment (COLA)

The following forms should be used when bringing an action in District Court:

- ✓ *Response to Notice of Motion and Motion to Stop Cost of Living Adjustment (CSD802)*
- ✓ *Affidavit in Support of Response to Notice of Motion and Motion to Stop Cost of Living Adjustment (CSD803)*
- ✓ *Affidavit of Service (CSD101)*
- ✓ *Confidential Financial Source Document (CON112 - Form 11.2)*

Important Notices and Resources:

The Court provides forms and instructions as a general guide to the court process. The instructions explain the steps and address common questions, but are not a comprehensive guide to the law.

You are responsible for your own case. Court employees can provide general information on court rules, procedures and practices but are prohibited from giving legal advice.

If you do not understand the forms and instructions, you may contact the MN Courts Self Help Center at www.mncourts.gov/selfhelp or by calling 651-259-3888.

If you are not sure if you should file court papers or if you have questions not addressed in the instructions, you should talk to a lawyer. For lawyer referral information see www.mncourts.gov/selfhelp/?page=252.

Helpful materials may be found at your public county law library. For a directory, see <http://www.lawlibrary.state.mn.us/cllppubdir.rtf>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

Step 1

Fill out the *Response to Notice of Motion and Motion to Stop COLA* form

The purpose of this form is to request that the court deny the motion to stop the cost of living adjustment on child support / spousal maintenance.

The information to fill in the boxes and blanks at the top of the form can be found at the top of your current child support order or your divorce or paternity decree, including:

- The county where your case is located (which may be different from the county where you live).
- The number of the judicial district.
- The court file number.
- The name of the Petitioner.
- The name of the Respondent.

If you are the Petitioner in the current order or decree you will be the Petitioner in this motion. Same if you are the Respondent.

Fill in the name and last known address of the other party.

If the cost of living adjustment is only for child support, check the child support box. If the cost of living adjustment is for both child support and spousal maintenance, check both boxes.

Sign and date the last page. Include your address and telephone number.

Step 2

Fill out the *Affidavit in Support of Response to Notice of Motion and Motion to Stop COLA* form

Fill in the top of the form the same way you did on your “Response to Notice of Motion and Motion To Stop Cost of Living Adjustment” form.

Fill in your name and check the box that indicates who you are in this action (either Petitioner or Respondent).

Check the same boxes you checked on your “Response to Notice of Motion and Motion to Stop Cost of Living Adjustment” (child support, spousal maintenance, or both).

Write out your reasons why the court should deny the request to stop cost of living adjustment on the child support / spousal maintenance obligation(s). Be specific in your reasons and indicate how your reasons are supported by law.

Signing the Affidavit under penalty of perjury means you are stating that the information in the Affidavit is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Step 3

Make copies of the forms

After the forms are completely filled out, make **two** copies of the motion and **two** copies of your “Affidavit in Support of Response to Notice of Motion and Motion to Stop Cost of Living Adjustment”, and **two** copies of any attachments. Keep one copy of each form and all attachments for yourself (be sure to bring your copies with you to court on the day of your hearing).

Step 4

Have copies of the documents served on the other party

You must arrange for the other party to receive complete copies of all documents you have prepared for the hearing. This is called “service of process.” A copy of the motion, affidavit, and any attachments must be served upon all parties, either personally or by mail. If the other party is represented by an attorney, the documents must be served on the attorney instead of the party.

Personal service: documents are hand delivered to the other party personally or by leaving the documents at the other party’s place of residence with some person who is of suitable age or discretion who also lives at the same residence. Documents must be hand delivered upon the other party (or his/her attorney if there is one) at least 5 days before the hearing date, excluding holidays and weekends.

Mail service: documents are mailed by first class U.S. mail to the other party at least 8 days before the hearing date.

If your documents are not timely served upon the other party (or his/her attorney), your motion may not be heard by the court.

YOU CANNOT HAND DELIVER OR MAIL THE DOCUMENTS YOURSELF. YOU MUST HAVE SOMEONE ELSE OVER THE AGE OF 18 WHO IS NOT A PARTY TO THE CASE HAND DELIVER OR MAIL THE DOCUMENTS FOR YOU.

Step 5

Complete the *Affidavit of Service* form

The person who hand delivers or mails the documents must fill out an “Affidavit of Service” form for each party served.

The server must sign the “Affidavit of Service” under penalty of perjury. By signing the Affidavit under penalty of perjury, the server is stating that the information in the Affidavit is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Step 6

File the Originals with the Court

File the documents with court administration in the county where your case is located as soon as practical but no later than 5 days before the scheduled hearing.

- The *Response to Notice of Motion and Motion to Stop Cost of Living Adjustment*
- The *Affidavit in Support of Response to Notice of Motion and Motion to Stop Cost of Living Adjustment*
- The *Affidavit of Service*
- The *Confidential Financial Source Document* (if used)

Filing by facsimile: Any paper may be filed with the court by facsimile (fax). If documents are filed by fax, the original documents must not be filed, but you must keep all original documents and make them available to the court or any party upon request. There is an additional \$25 filing fee to file by fax.

Confidential Financial Source Document – Court Form CON112 (also called Form 11.2)

IF you file any financial documents supporting your motion, you must attach the documents to Form 11.2. Check the box of the document you are attaching (such as pay stubs, tax returns, etc.). This form is only for the Court.

NOTE: If you fail to use the Form 11.2 cover sheet to protect confidential information in your supporting documents, the court may order you to pay additional court costs or other sanctions as a penalty for failing to follow the court rules.

Court Fees

Check with your local court administrator to see if a filing fee is required. If you did not pay an initial filing fee when this case first began, you will now need to pay the filing fee.

If you cannot afford to pay the fee, if required, you may ask a judge for an order waiving the fee. You will need to fill out an In Forma Pauperis application (available from court administration or the court website – Court Form IFP102) and file it with court administration. Your application will be reviewed by a judge who will decide whether you must pay the fee. If the judge does not sign an order that waives the fee, you must be prepared to pay the fee.

Step 7

Appear at the hearing

Come to court on the date and time scheduled for the hearing. Be sure to bring with you your copies of the Notice of Motion and Motion to Stop Cost of Living Adjustment, your Response to

Notice of Motion and Motion to Stop Cost of Living Adjustment, and all of your supporting papers.